

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

DONALD WITTE,

Plaintiff,

v.

**CONNECTICUT GENERAL LIFE INSURANCE
CO., THE GREAT ATLANTIC & PACIFIC TEA
CO., INC., THE GREAT ATLANTIC &
PACIFIC TEA CO., INC. LONG TERM
DISABILITY PLAN,**

Defendants.

06-CV-2755 (WJM)

ORDER

HON. WILLIAM J. MARTINI

This matter having come before the Court on Plaintiff's Motion for Attorney's Fees and Costs pursuant to 29 U.S.C. § 1132(g)(1); and the Court having been advised by a letter from Plaintiff dated June 10, 2008 that Plaintiff's claim for disability benefits was once again denied upon remand to the claims administrator for Defendant The Great Atlantic & Pacific Tea Company, Inc., Long Term Disability Plan; and Plaintiff having stated that he intends to reopen this matter once he receives certain requested evidence from Defendants; and the Court having determined that Plaintiff's motion for attorney's fees and costs is therefore premature at this time given the potential for further action in this case; and for good cause having been shown;

IT IS on this 11th day of June, 2008, hereby,

ORDERED that Plaintiff's Motion for Attorney's Fees and Costs is **DENIED WITHOUT PREJUDICE** at this time; and it is

FURTHER ORDERED that if Plaintiff intends to seek review of the April 2, 2008 denial of benefits, Plaintiff shall send a letter to the Court requesting that the case be reopened within forty-five (45) days of this Order, and if Plaintiff does not seek a review of the April 2, 2008 denial of benefits, Plaintiff may renew his motion for attorney's fees within the same letter; and it is

FURTHER ORDERED that if Plaintiff does seek a review of the April 2, 2008 denial of benefits, Plaintiff may renew and supplement his motion for attorney's fees by way of letter to this Court after the Court's review of the April 2, 2008 denial of benefits.

s/William J. Martini
William J. Martini, U.S.D.J.